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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/776,524	02/02/2001	Thomas S. Drunic	01-017-US	5224

7590

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EXAMINER

HARBECK, TIMOTHY M

ART UNIT

PAPER NUMBER

3628

DATE MAILED: 06/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

EA

Office Action Summary

Application No.

09/776,524

Applicant(s)

DRUNSIK, THOMAS S.

Examiner

Timothy M. Harbeck

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 3/23/2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-35 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-35 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 3/23/05.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

5001

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 4-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pritchard (US Pat 4,491,725) in view of Little et al (hereinafter Little, US Pat 5,359,509).

Re Claim 1: Pritchard discloses a computerized medical insurance system comprising:

- Initiating a transaction, said transaction having a value and screening said transaction based upon a first set of values (Column 7, lines 12-24).
- Posting an amount relating to said value to a holding account and reducing the amount available for expenditure in the participant accounts (Column 11, lines 22-33). Pritchard describes a process whereby a brokerage account can maintain a fund for the immediate payment to service providers before the completion of claim processing, and that this is effectively a purchase of the service provider's accounts receivable. This brokerage account represents the holding account. Using standard double entry accounting procedures that are well known in the art, this brokerage account would credit a payment to the service provider, while debiting the account receivable account representing the payment due from the participant. The participant account would thus be credited as an

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account payable, which, as is standard accounting procedure, would reduce the amount available for expenditure in the participant account.

- Pritchard does not disclose adjudicating said transaction, wherein upon approval of the transaction, said amount posted to the holding account is released and posted to the participant account and the amount available for expenditure is reduced. Little discloses a health care payment adjudication and review system that discloses the adjudication of a transaction (Column 4, lines 23-43), and while not disclosing posting said amount to the participant account while releasing it from the holding account, this is obvious in view of standard accounting practice. Once the transaction is deemed valid, the cash account of the participant will be debited (thus removing money and reducing amount available for expenditure) and the accounts payable credit will be removed, while the holding account will debit its cash account and credit its account receivable account. It would have been obvious to someone skilled in the ordinary art at the time of invention to include the adjudication process taught by Little to the medical insurance processing system of Pritchard, so that a health care provider can verify that a customer is a valid participant and that they are using their plan appropriately. If adjudication was not present in the system, a person could fraudulently use the system to obtain health care to which they are not entitled.

Re Claim 4: Pritchard further discloses that the transaction comprises an exchange of payment for qualified medical expense (Column 3, lines 29-31).

Re Claim 5: Pritchard further discloses using a specific card (MEDICARD) for payment at the point of sale, most likely a health care service provider (Column 10, lines 45-48). While Pritchard notes that the differential is paid in credit card type fashion, it was well known in the art at the time of invention that payment with a debit card is interchangeable with the use of a credit card except for the fact that a debit card is linked directly to a specific account. The MEDICARD disclosed by Pritchard is a card linked directly to an individuals health care account, so it would have been obvious for this card to be adapted to be used as a debit card to withdraw funds directly from a flex spending account unique to the individual to further expedite the process.

Re Claim 6: Pritchard discloses that the holding account is a sponsor shadow account (Column 11, lines 27-33). While not specifically calling the account a "shadow" account, the brokerage account of Pritchard acts to replicate the movements of the participant account in a manner that is consistent with applicant's definition of a "shadow" account.

Re Claim 7 and 8: Little discloses using pre-selected criteria in the adjudicating step and wherein approval is based upon the transaction complying with said pre-selected criteria (Column 4 lines 34-43).

Re Claim 9: Pritchard in view of Little discloses the claimed method, and the method of payment of the amount posted to the participant account to a sponsor

group account is indicative of double entry accounting procedure that was well known and frequently used in the art at the time of invention and would have been obvious for a company to use.

Re Claim 10: Little discloses wherein upon rejection of the transaction of the adjudicating step (Figure 3, Ref 204), the payment is not made to the health care provider. In this case, the participant would be responsible for any payment made to the service provider since it was determined that said transaction is not eligible under the terms of the health care agreement. It would be obvious then that the amount available for expenditure in the participant's health care account would be restored because if this were not the case the participant would essentially be charged twice for the single transaction. First they would be required to pay in some other fashion since the health care provider declined to pay for the procedure and at the same time would have the charge deducted from their health care account even though they were denied coverage.

Re Claim 11: Pritchard discloses the use of service codes that define a particular type of patient service (Column 6, line 38-47). These service codes are used to determine if the particular service the participant receives is eligible for coverage under the insurance plan. This is in line with applicants definition and motivation behind merchant category codes.

Re Claim 12: Pritchard discloses the use of a MEDICARD, which he defines as similar to a conventional credit card. As noted in the rejection of claim 5 it would have been obvious to adapt the MEDICARD to be used as a debit card. A debit

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card by definition is a card linked to a specific account, so if the MEDICARD was adapted to be a debit card it would have to be adapted to the participants account and more specifically the flexible spending account as disclosed by Little.

Claim 2-3, 13-15, 23-24, 27-30, and 32-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pritchard in view of Little as applied to claim 1 above, and further in view of Raskin et al. (hereinafter US 2001/0037214 A1).

Re Claim 2: Pritchard in view of Little discloses the claimed method except for the explicit disclosure that the participant account is a Flexible Spending Account. Raskin discloses the use of flexible spending accounts in health care (Page1, Paragraph 005). It would have been obvious to include the flexible spending accounts taught by Raskin to the method of Pritchard in view of Little because flex spending accounts are very popular health care programs and are used by many companies.

Re Claim 3: Raskin further discloses that the flex spending accounts are funded exclusively by the employee's election to place a portion of their pre-tax salary into the account (Page1, Paragraph 005). If this account is funded exclusively by the employee, then there must be a predetermined amount available for expenditure equal to the amount withheld from the employees salary. It would have been obvious to someone skilled in the ordinary art at the time of invention to include the pre determined amount available for expenditure taught by Raskin to the method of Pritchard in view of Little to prevent participants from over drafting their account. If there was not a predetermined

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amount, a participant could pay for any expenditure even if they do not have enough funds, and some other party would be responsible for paying the difference to the service provider.

Re Claim 13: Pritchard discloses a method comprising:

- Initiating a transaction wherein the participant receives goods or services from a provider (Column 6, lines 63-64)
- Screening said transaction by a merchant category code (CPT-IV) associated with said provider and determining said merchant category code to be qualified (Column 8, lines 11-43).
- Paying said provider from a sponsor group account, said sponsor group account relating to a plurality of participant accounts (Column 11, lines 22-29)

Pritchard does not disclose adjudicating said transaction, wherein upon approval of the transaction, said amount posted to the holding account is released and posted to the participant account and the amount available for expenditure is reduced. Little discloses a health care payment adjudication and review system that discloses the adjudication of a transaction (Column 4, lines 23-43), and while not disclosing posting said amount to the participant account while releasing it from the holding account, this is obvious in view of standard accounting practice. Once the transaction is deemed valid, the cash account of the participant will be debited (thus removing money and reducing amount available for expenditure) and the accounts payable credit will be removed, while

the holding account will debit its cash account and credit its account receivable account. It would have been obvious to someone skilled in the ordinary art at the time of invention to include the adjudication process taught by Little to the medical insurance processing system of Pritchard, so that a health care provider can verify that a customer is a valid participant and that they are using their plan appropriately. If adjudication was not present in the system, a person could fraudulently use the system to obtain health care to which they are not entitled.

Pritchard does not disclose the use of flexible spending accounts, however Raskin discloses the use of flexible spending accounts in health care (Page1, Paragraph 005). It would have been obvious to include the flexible spending accounts taught by Raskin to the method of Pritchard in view of Little because flex spending accounts are very popular health care programs and are used by many companies.

Re Claim 14: Pritchard further discloses a method wherein said transaction is comprised of participant identifying data, provider identifying data, a transactional amount and transaction descriptive data (Column 7, lines 43-51).

Re Claim 15: Pritchard further discloses a method wherein said transactional descriptive data includes sufficient information to determine if the transaction was for a qualified medical expense (Column 8, lines 25-43).

Re Claim 23: Further system claim would have been obvious from previously rejected method claims 1, 2, 6 and 10, and would therefore be rejected using the same art and rationale.

Re Claim 24: Raskin discloses the use of flexible spending accounts (Page1, Paragraph 005), which by definition is an account authorized for payment of approved medical expenses.

Re Claim 27: Raskin discloses the use of flexible spending accounts, which is a unique account that is specific to one particular participant. It would only make sense that payment and adjudication be related to this account. If this were not the case, a separate person's individual account could be falsely credited with having received services that they did not.

Re Claim 28: Little further discloses wherein said screening further includes determining that the transaction has been adjudicated by the provider from a selected set of criteria (Column 4, lines 26-30).

Re Claim 29: Pritchard further discloses a method wherein prior to posting of said transaction, the goods or service provider is notified of the posted amount (Column 8, lines 44-52). Pritchard's invention calls for the presentation of information from the health care provider regarding the amount that the provider will cover for a particular service or collection of services. This is effectively what would be posted on the shadow account.

Re Claim 30: Pritchard further discloses a method wherein the notification is prior to the delivery of goods or services to the participant (Column 8, lines 57-63). Pritchard states "the service provider is thus also able to render an immediate bill to the patient, if a service has been provided." This makes clear that in some instances the

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notification from the insurance provider can occur before any service has been performed.

Re Claim 32: Further system claim would have been obvious from previously rejected claims, 1, 2, 6, 10 and 13 and is therefore rejected using the same art and rationale.

Re Claim 33: It would have been obvious to post the debit during or after the initiation of the transaction. If the debit were posted before the transaction, this would mean that amount available for expenditure in a participant account would be reduced even though the individual has not received or agreed to any service.

Claims 25 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pritchard in view of Little as applied to claim 1 above, and further in view of Doyle.

Re Claim 25: Pritchard in view of Little discloses the claimed method supra except for the explicit disclosure wherein the initiating step is a request for payment. Doyle discloses a system wherein a physician initiates an adjudication process through a request for payment (Column 2, lines 17-20). It would have been obvious to initiate the adjudication process at the request for payment because then it is assured that the participant has in fact entered a transaction agreement with the service provider and the transaction needs to be verified.

Re Claim 26: Pritchard in view of Little further in view of Doyle discloses the claimed method supra. It is common knowledge that an out of pocket payment or a point of sale purchase with a debit card are common requests for payment that have

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been used in all forms of merchant transactions for many years. Doyle further discloses the transmission of a transaction file or database of claims (Column 2, lines 10-20).

Claims 16-20, 22 and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pritchard in view of Doyle et al (hereinafter Doyle, US Pat 5,070,452).

Re Claim 16: Pritchard discloses an application processor, wherein said application processor is adapted to send electronic communications to and receive electronic communications from at least one network service provider and at least one third party processor (Column 7 line 67-Column 8 line 7). Pritchard also discloses the use of a sponsor account used for immediate payment to service providers (Column 11, lines 22-29). Pritchard does not disclose a database in electronic communication with said application processor wherein at least one database includes information corresponding to a sponsor group account. Doyle discloses a computerized medical insurance system that automatically updates member eligibility files at pre-established intervals. Doyle discloses a database, maintained by a third party, which includes a comprehensive roster of all persons having insurance benefits under a given insurance plan. It would have been obvious to someone skilled in the ordinary art at the time of invention to include the database of Doyle to the method of Pritchard so that a service provider will have information relating to the sponsor accounts of a participant whom they are treating. The service provider would then know whom to contact directly in

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order to receive payment for services rendered. Without this database of information the service provider would not know who to contact and therefore would have no way to receive payment other than directly from the out of pocket funds of the customer. If a customer had to pay for the services out of pocket, participation in a health care plan would be useless.

Re Claim 17 and 18: Pritchard in view of Doyle discloses the claimed method supra and Doyle further discloses a system wherein said application processor is adapted to adjudicate a received transaction request further wherein said application processor is adapted to update said information corresponding to a program sponsor shadow account prior to adjudication and wherein said application processor is adapted to initiate sponsor accounts responsive to communications received from said at least one third party processor (Column 2 lines 10-20).

Re Claim 19: Doyle further discloses wherein said third party processor is a computer associated with a qualified medical service provider (Column 2 line 68-line 4).

Re Claim 20: Pritchard discloses a network service provider over which an immediate payment is made to service providers (Column 11 line 27-29). It has previously been presented that the MEDICARD of Pritchard is a credit card like device that could be adapted to be used as a debit card linked to a specific account. In view of this it would also be obvious that the MEDICARD could be a debit card server host as well using the same art and rationale.

Re Claim 22: Doyle does not explicitly disclose that said electronic communications to and from said at least one network service provider and said at least

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one third party processor utilize a communications methodology selected from the group consisting of: the internet; RJE dial up; FTP; EDI; and Direct Connect. However Doyle does note the use of a data link (Fig 1, Ref 21,24) that connect the administrative computer to the physician and employer respectively. It is well known in the art that a data link could include any of the communications formats listed and therefore would have been obvious to use to utilize a well know methodology.

Re Claim 31: Further system claim would have been obvious from previous claim 16, and is therefore rejected using the same art and rationale.

Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Pritchard in view of Doyle as applied to claim 16 above, and further in view of Little.

Re Claim 21: Pritchard in view of Doyle discloses the claimed method supra except for the explicit disclosure wherein said application processor and said at least one database are part of a mainframe computer. Little discloses a health care payment system utilizing computer processors and databases as part of a mainframe computer (Column 5, lines 64-66). It would have been obvious to someone skilled in the ordinary art at the time of invention to include the mainframe computer teaching of Little to that of Pritchard in view of Doyle so all the computer applications were available on one device.

Claim 34 and 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pritchard in view of Little and Raskin and Doyle.

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Re Claim 34: Further system claim would have been obvious from previously rejected claims, 1, 2, 6, 10, 11,12 and 16 and is therefore rejected using the same art and rationale.

Re Claim 35: Further method claim would have been obvious from previously rejected claims 1, 10, 16, 26 and 28 and is therefore rejected using the same art and rationale.

Response to Argument

The applicant's arguments have been considered but are moot in light of the new rejections.


Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Timothy M. Harbeck whose telephone number is 571-272-8123. The examiner can normally be reached on M-F 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hyung S. Sough can be reached on 571-272-6799. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


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